IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7353 OF 2005

Sou. Chandrabhabai Krishna Killedar ..Petitioner.

Versus

Shri Shivaji Atmaram Navale & Ors. ..Respondents.

Mr. G.N. Salunke for the Petitioner.
Mr. V.S. Talkute for the Respondent Nos. 2 to 5.

CORAM : S. A. BOBDE, J.
DATED : 24TH OCTOBER, 2005.

P.C.:

1. Rule returnable forthwith. Mr. Talkute for the Respondent Nos. 2 to 5 appears and waives service of rule. Heard by consent.

2. The petitioner has challenged the order by which the Additional Commissioner, Pune, has observed as follows :-

> "The order of Tahsildar "to record the name of the Respondent i.e. the petitioner herein, by accepting mortgage in "person under cultivation column" is illegal."

3. The petitioner claims to be in possession as a

mortgagee on the basis of an un-registered mortgage deed which the petitioner apparently did not produce before the authority. I see no reason to interfere with the order since the impugned order cannot have the effect of divesting the petitioner of any title she claims to have in the land nor can the said order ipso facto results in dis-possession of the petitioner. It is a settled law that the entries in the Record of Rights do not confer or divest any person of any title in the property. They have only presumptive value as regards possession. The said presumption is rebuttable under section 35 of the Evidence Act. In this view of the matter, the petitioner would be at liberty to assert her rights before the competent civil court, which shall decide the matter independently.

4. Petition is dismissed. Rule discharged.

DT. 24.10.05 (S.A.BOBDE,J)

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